

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)	
)	
Hyundai Motor Manufacturing)	
Alabama, LLC)	
Montgomery, Montgomery County,)	
Alabama)	CONSENT ORDER NO. 17-0XX-CAP
)	
Air Facility ID No. 209-0090)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, "the Department" and/or "ADEM") and Hyundai Motor Manufacturing Alabama, LLC (hereinafter, the "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code, §§ 22-22A-1 through 22-22A-16, (2006 Rplc. Vol.), the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 to 22-28-23 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a motor vehicle manufacturing plant (hereinafter, the "Facility"), located in Montgomery, Montgomery County, Alabama (ADEM Air Division Facility No. 209-0090).

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23 (2006 Rplc. Vol.).

4. On February 4, 2014, the Department issued Title V Operating Permit 209-0090 (hereinafter, "Title V Permit") to the Permittee, subject to certain conditions and requirements.

5. On March 20, 2014, the Department issued Air Permit 209-0090-X015 (hereinafter, "Air Permit X015") to the Permittee, subject to certain conditions and requirements.

6. The following production units are among those regulated under the Title V Permit: Motor Vehicle Assembly Plant with water curtains, RTO, and low NOx burners; 2-24.5 MMBtu/Hr natural gas fired Boilers; Storage Tanks; Engine Test Dynamometers with Incinerator Afterburners; Engine Test Firing Stands with Incinerator Afterburners, a natural gas fired Generator; and a diesel fired Generator.

7. Proviso No. 2.2 of the Title V Permit, Unit No. 8 (Engine Test Dynamometers with Incinerator Afterburners) states:

This unit shall not emit greater than 20.0 ppmvd of CO corrected to 15% excess O₂ (No Dilution Air) at outlet as measured in accordance with 40 CFR Part 60, Appendix A, Method 10.

8. Special Permit Proviso No. 2 of Air Permit X015 states:

The following emission limits are applicable:

<u>BURNER IDENTIFICATION</u>	<u>CO LIMIT</u>
Engine Test Dynamometer Nos. 2, 3, 4 (ES-17)	20.0 ppmvd corrected to 15% excess O ₂ (No Dilution Air) at outlet

These units shall test in accordance with 40 CFR Part 60, Appendix A, Method 10, or other method as determined by the Department if required to test by the Department (3-hour arithmetic average).

9. On April 6-7, 2016, the Permittee conducted engineering tests on the Engine Test Dynamometers with Incinerator Afterburners (ES-17) and (ES-19).

10. On May 23, 2016, the Department received the Permittee's test report for the April 6-7, 2016 testing of ES-17 and ES-19.

DEPARTMENT'S CONTENTIONS

11. The Department reviewed the April 6-7, 2016 test report and calculations showed emissions of 30.1 ppm @15% O₂ of CO for ES-

17 which was in excess of the emission limits set forth in Air Permit X015.

12. The Department reviewed the April 6-7, 2016 test report and calculations showed emissions of 25.6 ppm @15% O₂ of CO for ES-19 which was in excess of the emission limits set forth in the Title V Permit.

13. On June 10, 2016, the Department issued a Notice of Violation (NOV) to the Permittee for the exceedance listed in Stipulation No. 12.

14. On June 15, 2016, the Department issued the Permittee a revised and corrected NOV regarding the reported excessive emissions for ES-17 in Stipulation No. 11, because ES-19 was shutdown since 2014 except for the April 6-7, 2016, emission testing.

15. On June 29, 2016, the Permittee responded to the June 15, 2016, NOV, stating that the Permittee had violated the standard because of a change in operation concerning the engines that they were testing.

16. Pursuant to Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such

person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers the alleged violation that the Permittee exceeded permitted CO limitations to be serious.

B. THE STANDARD OF CARE: The Permittee demonstrated an inadequate standard of care by emitting pollutants in excess of permitted levels.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that there was little or no significant economic benefit gained by the Permittee as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts to minimize or mitigate the effects of the violations upon the environment by the Permittee.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department has no record of air pollution emission violations at the Facility within the last five years of the execution of this Order.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty in this matter to resolve this matter amicably without incurring the unwarranted expense of litigation.

17. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate (see Attachment A, which is made a part of the Department's Contentions).

18. The Department neither admits nor denies Permittee's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

19. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

20. This Consent Order concerns a violation of Proviso 2.2 of the Title V Operating Permit, Unit No. 8 (Engine Test Dynamometers with Incinerator Afterburners). This violation was self-reported by the Permittee on May 20, 2016.

21. Unit No. ES-17, and similar Unit No. ES-19, have been used to test engines and are both regulated by Operating Permit Summary No. 8. In recent years, the engines that are tested in these Units have undergone engineering improvements that are specifically intended to reduce air emissions once those engines are in use on the road.

22. In order to protect these newer model engines during stress testing in Units regulated by Proviso 2.2, the Permittee increases fuel enrichment in order to decrease cylinder temperatures. This causes a higher exhaust CO during testing even though the engines are designed for and proven to lower emissions in actual use.

23. As a result of this engine change, the Permittee shut down Unit No. ES-19 in 2014 in order to avoid violating applicable permit emission limits. Engines that would ordinarily have been tested at that Unit were shipped to a facility in Michigan for testing.

24. Following the reporting of the CO emissions exceedances in May, 2016, the Permittee proposed a modification of its Title V Permit to

allow use of an alternative compliance method authorized by state and federal regulations. This proposal was approved and reflected in modified Air Permits 209-0090-X015 and 209-0090-X016 issued on September 30, 2016.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), as well as the need for timely and effective enforcement, and that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$5,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of

Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, Alabama 36130-1463

C. Before December 31, 2016, the Permittee will conduct a Method 10 stack test on Units ES-17 and ES-19 to show compliance with its permitted CO limit. If the Permittee does not show compliance with its present permit conditions after this/these tests, it will cease operating the Unit(s) until repairs are made. After repairs are completed, the above procedure will be repeated until compliance is shown with the Permittee's present permit requirements.

D. The Permittee agrees to comply with the terms, limitations, and conditions of the Permits and the Department's regulations immediately upon the effective date of this Consent Order and every day thereafter.

E. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

F. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violations and/or deviations which are cited in this Consent Order.

G. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any

request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

I. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

J. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

K. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

L. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

M. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

N. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

O. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State

or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

HYUNDAI MOTOR
MANUFACTURING
ALABAMA, LLC

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

(Signature of Authorized Representative)

Lance R. LeFleur
Director

(Printed Name)

(Printed Title)

(Date Signed)

(Date Executed)

HMMA, LLC
Montgomery, Montgomery County

Air Facility ID No. 209-0090

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Exceedance of CO Limitations	1	\$4,000	\$1,000		
					Total of Three Factors
<i>TOTAL PER FACTOR</i>		<i>\$4,000</i>	<i>\$1,000</i>	<i>\$0</i>	<i>\$5,000</i>

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-) <i>Enter at Right</i>	\$0

Economic Benefit (+)	
Amount of Initial Penalty	\$5,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$5,000

Footnotes

* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.